



UNITED STATES DEPARTMENT OF COMMERCE
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Serial Number: 08/064,945

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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Art Unit: 2405

08/064,945 05/20/93 BARBERG

D B560.120002

EXAMINER

1. This application contains claims directed to the following

E4M1/0207

ART UNIT

PAPER NUMBER

DAVID R. FAIRBAIN: species of the claimed invention.

KINNEY & LANGE

SUITE 1500

625 FOURTH AVENUE SOUTH

MINNEAPOLIS, MN 55415-1659

2405

DATE MAILED:

02/07/94

This is a communication from the examiner in charge of your application, 35 U.S.C. § 121 to elect a
COMMISSIONER OF PATENTS AND TRADEMARKS

single disclosed species for prosecution on the merits to which

- ☒ The claims shall be restricted if no generic claim is finally
☒ This application has been examined ☐ Responsive to communication filed on ☐ This action is made final.
held to be allowable. Currently, no claim is generic.
A shortened statutory period for response to this action is set to expire 30 month(s), 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned, 35 U.S.C. § 135.
Part I. THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION: must include an identification of the species that is elected
consonant with this requirement, and a listing of all claims
readable thereon, including any claims subsequently added. An
1. ☐ Notice of References Cited by Examiner, PTO-892. 2. ☐ Notice of Draftsman's Patent Drawing Review, PTO-948.
3. ☐ Statement that a claim is allowable or that all claims are generic.
4. ☐ Notice of Informal Patent Application, PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474. 6. ☐

- Upon the allowance of a generic claim, applicant will be
Part II. SUMMARY OF ACTION entitled to consideration of claims to additional species which
1. ☒ Claims are pending in the application.
of the above, claims are withdrawn from consideration.
2. ☐ Claims have been cancelled.
3. ☐ Claims are allowed.
4. ☐ Claims are rejected.
5. ☐ Claims are objected to.
6. ☒ Claims are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on 02/07/94. Under 37 C.F.R. 1.84 these drawings
are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948), being
10. ☒ The proposed additional or substitute sheet(s) of drawings, filed on 02/07/94, has (have) been ☐ approved by the
examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed 02/07/94, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. 08/064,945; filed on 05/20/93.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in
accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

PTOL-328 (Rev. 2/83)

Note: Any objection to the drawing is subject to the provisions of 37 C.F.R. 1.101 and 1.102.

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1. This application contains claims directed to the following patentably distinct species of the claimed invention:

I. Figs 5-6 and

II. Fig. 7.

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

2. A telephone call was made to the office of Mr. Fairbairn on February 4, 1994 to request an oral election to the above restriction requirement, but did not result in an election being made.

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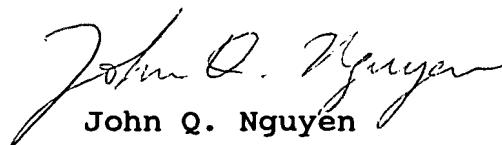
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Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Nguyen whose telephone number is (703) 308-2689.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0771.



John Q. Nguyen

Patent Examiner

Group 240

JN

February 4, 1994